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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,508	09/11/2001	Joseph P. Barbetta	P01-158-BAR	7897

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TSO, EDWARD H

ART UNIT	PAPER NUMBER
	2838

DATE MAILED: 05/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/682,508	Applicant(s) Barbetta
	Examiner Edward Tso	Art Unit 2838



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
 - 2a) This action is FINAL. 2b) This action is non-final.
 - 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.
- Disposition of Claims**
- 4) Claim(s) 1-54 is/are pending in the application.
 - 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
 - 5) Claim(s) _____ is/are allowed.
 - 6) Claim(s) 1, 3, 15, 18-25, 27-29, 32, 40, and 43-51 is/are rejected.
 - 7) Claim(s) 2, 4-14, 16, 17, 26, 30, 31, 33-39, 41, 42, and 52-54 is/are objected to.
 - 8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some* c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 4) Interview Summary (PTO-413) Paper No(s). _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

Art Unit: 2838

DETAILED ACTION

Specification

1. The disclosure should be carefully reviewed to ensure that any and all grammatical, idiomatic, and spelling or other minor errors are corrected.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1, 3, 15, 25, 29, 32 and 40 are rejected under 35 U.S.C. 102(a) as being anticipated by JAMES (US 6,140,820).

Regarding claims 1, 3, 25, 29 and 32, the reference discloses a system for monitoring a stack of fuel cells wherein a meter (24) connected to an individual or a group of cells which furnishes the performance to a monitor processor (29) which in turn reports these performance values to other circuitry that control these cells. See, for example, col 2, lines 22-31 and figure 1.

Regarding claims 15 and 40, the meter is isolated from other meters and only "see" its respective individual or group of cells. See col 2, line 50-55.

Art Unit: 2838

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18-24, 27, 28 and 43-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over **JAMES** (US 6,140,820) in view of **BLAIR et al.** (US 5,170,124).

Regarding claims 18, 27, 28 and 43, the reference does not provide an alarm to warn a user as to the status of the cells and perform a shutdown operation in case of unsafe operation. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the system with an alarm for audible alert and shutdown procedure as seen in **BLAIR et al.**, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Regarding claims 19-24 and 44-51, the reference does not specifically mention the specific display or control of types of performance parameters including voltage, impedance etc. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have selected different types of parameters to display and/or control, since it has been held to be

Art Unit: 2838

within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Allowable Subject Matter

4. Claims 2, 4-14, 16, 17, 26, 30, 31, 33-39, 41, 42 and 52-54 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art fails to show a system to monitor fuel cell performance having at least an attenuator, a multiflexor, a temperature sensing device, other meter connected to the other meters and batteries and/or capacitors coupled to the cells.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. Any inquiry concerning this communication should be directed to the Examiner at the below-listed number.

By:



EDWARD TSO
Primary Examiner
703 308 2823